IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 226 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME TAX

Versus

YUDHISTHAR INVESTMENT PVT LTD

Appearance:

1. INCOME TAX REFERENCE No. 226 of 1991
MS MAUNA BHATT for Petitioner No. 1
MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 25/06/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the revenue, the following question of law arising out of an order passed by the Income-tax Appellate Tribunal, Ahmedabad Bench-A has been referred to this Court under the provisions of Section 256(1) of the Income-tax Act, 1961 (hereinafter referred to as the "Act").

"Whether, the Appellate Tribunal is right in law and on facts in cancelling the interest charged under Section 201(1A) of the Income-tax Act, 1961?"

2. Learned Standing Counsel Smt Mauna Bhatt has appeared for the applicant-revenue whereas learned advocate Shri B.D. Karia has appeared for the respondent-assessee.

3. The learned advocates appearing for the parties have fairly submitted that the question of law, which has been referred to this Court in this Reference, has been decided by this Court in I.T.R. No.223/1991.

4. It has been submitted by the learned advocates that in the instant case also, the amount of interest, which was to be paid by the assessee to the concerned creditors during the relevant assessment year was neither paid nor their accounts were credited by the amount of interest and, therefore, there was no liability on the part of the assessee to deduct the amount of tax on the said amount of interest as per the provisions of Section 194 (A) (1) of the Act

5. In view of the aforestated undisputed fact, we are in respectful agreement with the judgement delivered in the case of I.T.R. No.223/1991 and decide the question referred to this Court in the affirmative i.e. in favour of the assessee and against the revenue.

The Reference stands disposed of with no order as to costs.

(A.R. DAVE,J.)

(A.M. KAPAIDA,J.)

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